

### REMARKS

Applicants have studied the Office Action dated December 31, 2003 and have made amendments to the claims to distinctly claim and particularly point out the subject matter which Applicants regard as the invention. No new matter has been added. It is submitted that the application, as amended, is in condition for allowance. By virtue of this amendment, claims 19-31 are pending. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, the Examiner:

- objected to the specification because of the presence of a hyperlink
- rejected claims 19-31 under 35 U.S.C. § 103(a) as being unpatentable over Rackson et al. (U.S. 6,415,270)

#### Objection to Specification

As noted above, the Examiner objected to the specification due to the presence of a hyperlink or other form of browser-executable code. The Applicants have amended the specification to correct this defect. Therefore, the Examiner's objection has been overcome.

#### Rejection under 35 U.S.C. §103(a) over Rackson et al. (U.S. 6,415,270)

As noted above, the Examiner rejected claims 19-31 under 35 U.S.C. § 103(a) as being unpatentable over Rackson et al. (U.S. 6,415,270). The Applicants respectfully overcome this rejection below.

The Applicants' invention is directed toward a system and method of automating and managing bids within the context of an Internet auction. The Applicants' invention permits continuous monitoring and verification of auctions on the Internet based on

AM9-99-066

7

09/417,065

criterion such as highest bid on an item, maximum permissible bid, and a restriction on the number of successful bids in the auctions by any given participant. The present invention permits embodiments incorporating an auction profile database that is generated by an auction profile configuration tool to act as input to an item search manager that takes data from an item database and control from an item selector to then interact with an auction bid controller that communicates with the remote auction site via an auction command interface. See Abstract of Applicants' specification.

Thus, the Applicants' invention is directed towards a bidder participating in multiple auctions for the same purchase item and managing an auction based on the proceedings of another auction (as described in Applicants' independent claims). Furthermore, the Applicants' invention is directed towards the automatic purchase of products or services (without user interaction) on behalf of the user (as described in Applicants' independent claims). The concept of a bidder participating in multiple auctions for the same purchase item is described in part by the following element of independent claim 1:

*returning to the communicating step to inquire if there are additional auction sites in which it might be advantageous to place a bid on said product purchase request*

The concept of managing an auction based on the proceedings of another auction is described in part by the following element of independent claim 1:

*determining if time is running out on any current outstanding bids and if so, canceling all high-cost outstanding bids and returning to the determining if said bid has been accepted*

The concept of automatic purchase of products or services (without user interaction) on behalf of the user is described in part by the following element of independent claim 1:

*an information processing system for automatically purchasing products without user interaction*

The Rackson et al. reference is directed towards a multi-auction service system and method for replicating an item to be auctioned at a plurality of remote auction services, where the multi-auction service detects bids at the plurality of remote auction services for the item in order to replicate the optimal bid at each of the remote auction services such that the optimal bid is afforded to a bidder or seller. See Abstract of the Rackson et al. reference.

The Rackson et al. reference provides a system and method for coordinating an auction for an item between a multi-auction service, a plurality of remote auction services, and a plurality of bidders, all of which are interconnected by a network. The method disclosed by Rackson et al. includes receiving selling parameters for the item to be auctioned from a seller, transmitting the parameters for the item to a plurality of remote auction services, and detecting that a bid for the item has been received by at least one of the remote auction services. The method further includes determining which of the remote auction services should receive a replicated bid, and transmitting a replicated bid to each of the remote auction services so determined. In the case where more than one remote auction service receives a bid for the item, the multi-auction service detects that a bid for the item has been received by more than one of the remote auction services, establishes which of the received bids is an optimal bid for the item, and transmits the optimal bid as the replicated bid to each of the remote auction services. See Summary of the Invention of the Rackson et al. reference.

The Rackson et al. reference, however, does not disclose the initiation of multiple auctions for the same purchase product or item, as described in the independent claims of the Applicants' invention. Specifically, nowhere in the specification does the Rackson et al. reference make any mention of a bidder participating in multiple auctions for the same purchase item or managing an auction

based on the proceedings of another auction (as described in Applicants' independent claims). Accordingly, for this reason, the Applicants' invention is distinguishable over Rackson et al. and in view of the obviousness arguments of the Examiner.

Therefore, for the reasons stated above, the Rackson et al. reference taken alone or in view of the information that is allegedly in the personal knowledge of the Examiner does not describe, teach nor suggest the recited elements of independent claims 19, 25 and 31. Therefore, the Examiner's rejection should be withdrawn.

Dependent claims 20-24 and 26-30 depend from independent claims 19 and 25, respectively. Since dependent claims contain all the limitations of the independent claims, claims 20-24 and 26-30 distinguish over the reference above. Therefore, the Examiner's rejection should be withdrawn.

The Applicants have submitted an affidavit under 37 CFR 1.131 herewith to overcome Rackson et al. The effective filing date of Rackson et al. is September 3, 1999. The present invention was reduced to a writing and signed by the Applicants prior to the effective filing date of Rackson et al. The present invention was filed not more than one year from the filing date of the above referenced patent. Accordingly, Applicants respectfully request that the Rackson et al. reference be removed from consideration and respectfully submitted that the rejection of claims 19-31 under 35 U.S.C. §103(a) should be withdrawn.

### **CONCLUSION**

The remaining cited references have been reviewed and are not believed to affect the patentability of the claims as amended.

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly,

AM9-99-066

10

09/417,065

Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

**PLEASE CALL** the undersigned if that would expedite the prosecution of this application.

Respectfully submitted,

Date: March 12, 2004

By: 

Jon Gibbons, Reg. No. 37,333  
Attorney for Applicants  
FLEIT, KAIN, GIBBONS,  
GUTMAN, BONGINI, & BIANCO P.L.  
551 N.W. 77th Street, Suite 111  
Boca Raton, FL 33487  
Tel (561) 989-9811  
Fax (561) 989-9812

Please Direct All Future Correspondence to Customer Number **23334**

AM9-99-066

11

09/417,065